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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,113	09/09/2003	George S. Syrigos	718512.2	2112
27128	7590	03/30/2004	EXAMINER	
BLACKWELL SANDERS PEPER MARTIN LLP			VALENTI, ANDREA M	
720 OLIVE STREET			ART UNIT	
SUITE 2400			PAPER NUMBER	
ST. LOUIS, MO 63101			3643	

DATE MAILED: 03/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/605,113

Applicant(s)

SYRIGOS ET AL.

Examiner

Andrea M. Valenti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

Claim 9 is objected to because of the following informalities:

Claim 9, last line states 'sidewall with a plurality' but it appears part of the claim is missing. A plurality of what?

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 10, and 12-13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Des. 371,641 to Crowley.

Regarding Claim 1, Crowley teaches a pet playhouse comprising: a plurality of enclosures including a first enclosure with a first interior divided into at least two first rooms and at least one first floor and at least one first portal through a first floor to provide for travel through the first floor; and a second enclosure with a second interior divided into at least two second rooms and at least one second floor with at least one second portal to provide for travel through the second floor, said second enclosure being attached to the first enclosure in side-by-side relation; an entry associated with at least one of the first and second enclosures providing for ingress into and egress from the respective interior; and a port associated with the first and second enclosures to

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provide for pet movement between the first and second enclosures (See attached Crowley Fig. 1).

Regarding Claim 10, Crowley teaches at least one of the enclosures including a roof mounted thereto (Crowley Fig. 1).

Regarding Claim 12, Crowley teaches at least one of the enclosures including at least one of an entry precursor and a port precursor (Crowley Fig. 1).

Regarding Claim 13, Crowley teaches at least two of the enclosures each including at least one port precursor (Crowley Fig. 1).

Claims 1-4 and 6-15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,099, 411 to Van Wagenen.

Regarding Claim 1, Van Wagenen teaches a pet playhouse comprising: a plurality of enclosures including a first enclosure (Wagenen Fig. 2C) with a first interior divided into at least two first rooms (Wagenen #52) and at least one first floor and at least one first portal (Wagenen #54) through a first floor to provide for travel through the first floor; and at least one second floor with at least one second portal (Wagenen Fig. 2C #23) to provide for travel through the second floor and a second enclosure (Wagenen Fig. 11) with a second interior divided into at least two second rooms, said second enclosure being attached to the first enclosure in side-by-side relation; an entry associated with at least one of the first and second enclosures providing for ingress into and egress from the respective interior; and a port (Wagenen Fig. 12) associated with

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the first and second enclosures to provide for pet movement between the first and second enclosures.

Regarding Claim 2, Wagenen teaches a third enclosure attached to one of the first and second enclosures (Wagenen Fig. 13).

Regarding Claim 3, Wagenen teaches the the first, second and third enclosures each inherently having a longitudinal axis with the longitudinally axes defining a configuration with width and depth (Wagenen Fig. 13).

Regarding Claim 4, Wagenen teaches the first, second and third enclosures each having at least five sides (Wagene Fig. 1).

Regarding Claims 6 and 14, Wagenen teaches the playhouse includes at least a first enclosure, second enclosure and a third enclosure each having a longitudinal axis wherein the longitudinally axes are oriented in a generally V shape (Wagenen Fig. 1 the enclosure on the corner and the enclosures one either side of the corner enclosure).

Regarding Claim 7, Wagenen teaches the at least one of the first, second and third enclosures including a window through a sidewall thereof (Wagenen Fig. 1 #22).

Regarding Claim 8, Wagenen teaches at least one of the floors including an ear projecting from a side edge thereof and through a first slot in the sidewall of a respective enclosure through a slot in a sidewall of an adjacent enclosure and then through 2 aligned slots in the adjacent panels of the sidewalls of the adjacent enclosures, said ear having a portion overlying an interior surface of the adjacent enclosure (Wagenen Fig. 9 #52 and 70).

Regarding Claim 9, Wagenen teaches the floors having a peripheral edge corresponding generally in size and shape to the transverse cross sectional shape of the interior of the enclosure, said floor having a plurality of side edge portions and including a plurality of ears each projecting from a respective side edge portion, said enclosure having a sidewall with a plurality (Wagene Fig. 9 and Fig. 14 #54).

Regarding Claim 10, Wagenen teaches at least one of the enclosures including a roof mounted thereto (Wagenen Fig. 1 and Fig. 8A-F).

Regarding Claim 11, Wagenen teaches the portals each including a hole through a respective floor Fig. 2B #52).

Regarding Claim 12, Wagenen teaches at least one of the enclosures including at least one of an entry precursor and a port precursor (Wagenen Fig. 1 #23).

Regarding Claim 13, Wagenen teaches at least two of the enclosures each including at least one port precursor (Fig. 1 #23).

Regarding Claim 15, Wagenen teaches the floors each having a side edge corresponding in size and shape to the transverse cross sectional shape of the interior of the respective first, second and third enclosures and each said floor having a plurality of ears projecting from a respective side edge thereof, the first, second and third enclosures each having a plurality of slots through a respective sidewall thereof each adapted to receive an ear therethrough for mounting the floor to the respective first, second or third enclosure (Fig. 12 #54 and Fig. 9 #62 and 70).



***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-7, 11, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Des. 371,641 to Crowley.

Regarding Claim 2, Crowley is silent on a third enclosure attached to one of the first and second enclosures. However, it would have been obvious to one of ordinary skill in the art to modify the teachings at the time of the invention since the modification is merely the duplication of a known part for a multiple effect to accommodate more cats in a larger playing space and does not present a patentably distinct limitation [*In re Harza*, 274 F.2d 669, 671, 124 USPQ 378, 380 (CCP 1960)].

Regarding Claim 3, Crowley as modified inherently teaches the first, second and third enclosures each having a longitudinal axis with the longitudinally axes defining a configuration with width and depth.

Regarding Claim 4, Crowley as modified teaches the first, second and third enclosures each having at least five sides (Crowley Fig. 1 applicant merely claims five sides and has not specified if the sides are enclosed or open).

Regarding Claim 5, Crowley as modified teaches the first enclosure abutting at one side thereof to one side of the second enclosure and the second enclosure abutting at one side thereof to one side of the third enclosure (Crowley Fig. 1), but is silent on

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the first, second and third enclosures each having at least six sides and wherein.

However, it would have been obvious to one of ordinary skill in the art to modify the teachings at the time of the inventions since the modification is merely a change in aesthetic design to provide a device with more consumer appeal with dimensional design and does not change the function of the device and does not present a patentably distinct limitation.

Regarding Claims 6 and 14, Crowley as modified teaches the playhouse includes at least a first enclosure, second enclosure and a third enclosure each having a longitudinal axis, but is silent on the longitudinally axes being oriented in a generally V shape. However, it would have been obvious to one of ordinary skill in the art to modify the teachings at the time of the invention since the modification is merely a change in orientation to accommodate certain space constraints and does not present a patentably distinct limitation.

Regarding Claim 7, Crowley as modified teaches at least one of the first, second and third enclosures including a window through a sidewall thereof (Crowley Fig. 1).

Regarding Claim 11, the portals each including a hole through a respective floor.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,320,065 to Leopold.

Regarding Claims 1, 2, and 11-13, Leopold teaches a pet playhouse comprising: a plurality of enclosures including a first enclosure (Leopold Fig. 4) with a first interior divided into at least two first rooms and at least one first floor and at least one first



portal (Leopold #35a and #66) through a first floor to provide for travel through the first floor; and at least one second floor with at least one second portal to provide for travel through the second floor (Leopold Fig. 7) and a port associated with the first enclosures to provide for pet movement between the first and the outside enclosures.

Leopold is silent on a second enclosure and a third enclosure with a second interior divided into at least two second rooms, said second enclosure being attached to the first enclosure in side-by-side relation. However, it would have been obvious to one of ordinary skill in the art to modify the teachings at the time of the invention since the modification is merely the duplication of a known part for a multiple effect to accommodate more cats in a larger playing space and does not present a patentably distinct limitation [*In re Harza*, 274 F.2d 669, 671, 124 USPQ 378, 380 (CCP 1960)].

Regarding Claim 3, Leopold as modified inherently teaches the first, second and third enclosures each having a longitudinal axis with the longitudinally axes defining a configuration with width and depth (Leopold Fig. 1).

Regarding Claims 4 and 5, Leopold as modified teaches the first, second and third enclosures each having at least five or six sides (Leopold Col. 3 line 25-30) abutting each other in a space efficient manner.

Regarding Claims 6 and 14, Leopold as modified is silent on the playhouse includes at least a first enclosure, second enclosure and a third enclosure each having a longitudinal axis wherein the longitudinally axes are oriented in a generally V shape. However, it would have been obvious to one of ordinary skill in the art to modify the teachings at the time of the invention since the modification is merely a change in

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orientation to accommodate certain space constraints and does not present a patentably distinct limitation.

Regarding Claim 7, Leopold as modified teaches at least one of the first, second and third enclosures including a window through a sidewall thereof (Leopold #51 and 61).

Regarding Claim 8, Leopold as modified teaches at least one of the floors including an ear projecting from a side edge thereof and through a first slot in the sidewall of a respective enclosure through a slot in a sidewall of an adjacent enclosure and then through 2 aligned slots in the adjacent panels of the sidewalls of the adjacent enclosures, said ear having a portion overlying an interior surface of the adjacent enclosure (Leopold #39, 38, and 69 and Fig. 6b/6a).

Regarding Claim 9, Leopold as modified teaches the floors having a peripheral edge corresponding generally in size and shape to the transverse cross sectional shape of the interior of the enclosure, said floor having a plurality of side edge portions and including a plurality of ears each projecting from a respective side edge portion, said enclosure having a sidewall with a plurality (Leopold Fig. 7 #30 and Fig. 8).

Regarding Claim 10, Leopold as modified teaches at least one of the enclosures including a roof mounted thereto (Fig. 7 the top of the stack).

Regarding Claim 15, Leopold as modified teaches the floors each having a side edge corresponding in size and shape to the transverse cross sectional shape of the interior of the respective first, second and third enclosures and each said floor having a plurality of ears projecting from a respective side edge thereof, the first, second and

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third enclosures each having a plurality of slots through a respective sidewall thereof each adapted to receive an ear therethrough for mounting the floor to the respective first, second or third enclosure (Leopold Fig. 7 and Fig. 8 #32, 33, 44, 64).

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,099,411 to Van Wagenen.

Regarding Claim 5, Wagenen is silent on the first, second and third enclosures each having at least six sides and wherein the first enclosure abutting at one side thereof to one side of the second enclosure and the second enclosure abutting at one side thereof to one side of the third enclosure. However, it would have been obvious to one of ordinary skill in the art to modify the teachings at the time of the inventions since the modification is merely a change in aesthetic design to provide a device with more consumer appeal with dimensional design and does not change the function of the device and does not present a patentably distinct limitation.

### ***Conclusion***

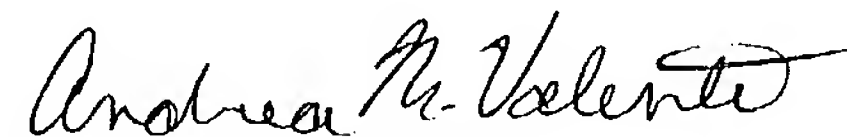
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 3,561,757; U.S. Patent No. 5,938,566; U.S. Patent No. 4,301,766; U.S. Patent No. 5,964,189; U.S. Patent No. 3,485,494; U.S. Patent No. 5,226,864; U.S. Patent No. 5,711,253; U.S. Patent D476,780S; U.S. Patent Pub No. US 2004/0025801 A1; German Patent DE 3236474; German Patent DE 4244158; and German Patent DE 3842638.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 703-305-3010. The examiner can normally be reached on 7:30am-5pm M-F; Alternating Fridays Off.

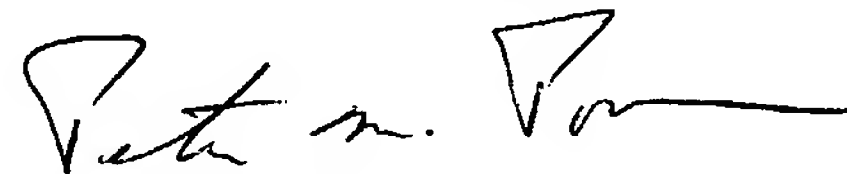
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Andrea M. Valenti  
Examiner  
Art Unit 3643

16 March 2004



Peter M. Poon  
Supervisory Patent Examiner  
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3/24/04